



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,248	02/13/2001	Peter Brittingham	246400.0164	2566
7590	04/27/2004		EXAMINER	
John W. Ryan WILMER, CUTLER & PICKERING 2445 M. Street, N.W. Washington, DC 20037-1420			PHILLIPS, HASSAN A	
		ART UNIT	PAPER NUMBER	
		2151		
DATE MAILED: 04/27/2004				

5

Please find below and/or attached an Office communication concerning this application or proceeding.

A24

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/781,248	BRITTINGHAM ET AL.
	Examiner Hassan Phillips	Art Unit 2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 March 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 February 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure is objected to because of undue length.

Correction is required. See MPEP § 608.01(b).

2. The disclosure is objected to because of the following informalities: On page 10, line 31; an incorrect reference numeral is used in describing Fig. 2. The examiner feels, "in step 213" should read, "in step 214" instead. Appropriate correction is required.

### ***Claim Objections***

1. Claims 8, 17, and 26, are objected to because of the following informalities: One or more words are missing in claim 8, on page 14, line 19, claim 17, on page 16, line 29, and claim 26, on page 18, line 26. In order for the examiner to complete the examination for the patent application, the examiner has interpreted the word "in" to come after the word "database" and before the word "a" in claim 8, line 19, claim 17, line 29, and in claim 26, line 26. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 19 recites the limitation "said on-line service" in line 15. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-7, 10-16, 19-25, are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Tracton et al. (hereinafter Tracton), U.S. patent 6,470,378.

3. In considering claims 1 and 10, Tracton discloses a method of querying a client computer by a server over a communication network to determine whether the client computer has sufficient performance capability in order to utilize an on-line service, comprising:

- a) Allowing a query program to be downloaded to the client computer, the query program, upon execution, querying the client computer for at least one performance parameter, (col. 3, lines 55-58);

- b) Transmitting at least one performance parameter to the server, (col. 3, lines 58-62);
  - c) Determining whether the client computer has a sufficient performance capability to utilize the on-line service based on the at least one performance parameter, (col. 3, lines 62-65).
4. In considering claims 2 and 11, the method of Tracton further discloses storing a client identifier (or certification file) 80, in the client computer if the client computer has sufficient performance capability, the file being accessible by the server. See col. 3, lines 66-67, and col. 4, lines 1-13.
5. In considering claims 3 and 12, the method of Tracton further provides a means for determining whether the client computer was previously certified, the client computer being previously certified if a certification file 80, is stored in the client computer. See col. 3, lines 55-67, and col. 4, lines 1-13.
6. In considering claims 4 and 13, the method of Tracton further discloses the query program being configured to issue one or more application program interface function calls to an operating system of the client computer, the operating system returning at least one performance parameter in response to the one or more application program interface function calls. See col. 5, lines 30-57.

7. In considering claims 5 and 14, it is inherent in the method taught by Tracton that certification criteria is contained in a storage of the server. See col. 3, lines 62-65.

8. In considering claims 6 and 15, it is also inherent in the method taught by Tracton that in the step of determining whether the client computer has sufficient performance capabilities, comparing at least one performance parameter to the certification criteria. See col. 3, lines 62-65.

9. In considering claims 7 and 16, the method of Tracton further discloses providing a remediation to a user of the client computer if it was determined that the client computer does not have sufficient performance capability. See col. 3, lines 62-65.

10. In considering claim 19, Tracton discloses a system for remotely querying a client computer by a server over a communication network, comprising:

- a) A communication network 104, (see Fig. 4);
- b) A server configured to allow a query program to be downloaded to the client computer, the query program, upon execution, querying the client computer for at least one performance parameter from the querying program, and determining whether the client computer has a sufficient performance capability to utilize an on-line service based on the at least one performance parameter, (col. 3, lines 55-65).

11. In considering claim 20, the method of Tracton further discloses storing a client identifier (or certification file) 80, in the client computer if the client computer has sufficient performance capability, the file being accessible by the server. See col. 3, lines 66-67, and col. 4, lines 1-13.

12. In considering claim 21, the method of Tracton further provides a means for determining whether the client computer was previously certified, the client computer being previously certified if a certification file 80, is stored in the client computer. See col. 3, lines 55-67, and col. 4, lines 1-13.

13. In considering claim 22, the method of Tracton further discloses the query program being configured to issue one or more application program interface function calls to an operating system of the client computer, the operating system returning at least one performance parameter in response to the one or more application program interface function calls. See col. 5, lines 30-57.

14. In considering claim 23, it is inherent in the method taught by Tracton that certification criteria are contained in storage of the server. See col. 3, lines 62-65.

15. In considering claim 24, it is also inherent in the method taught by Tracton that in the step of determining whether the client computer has sufficient performance

Art Unit: 2151

capabilities, comparing at least one performance parameter to the certification criteria.

See col. 3, lines 62-65.

16. In considering claim 25, the method of Tracton further discloses providing a remediation to a user of the client computer if it was determined that the client computer does not have sufficient performance capability. See col. 3, lines 62-65.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 8, 9, 17, 18, 26, 27, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracton in view of Bland et al. (hereinafter Bland), U.S. patent 5,732,218.

3. In considering claims 8 and 17, although the disclosed system of Tracton show substantial features of the claimed invention, if fails to expressly disclose:

a) Storing a client computer database in the storage of the server.

Nevertheless, storing a client computer database in the storage of a server was well known in the art at the time of the present invention. This is exemplified in a

method, taught by Bland, that discloses a management data gathering system comprising:

- a) Storing a client computer database 123 in the storage of a server 103, (col. 5, lines 62-66).

Given the teachings of Bland, it would have been obvious to one of ordinary skill in the art, to modify the teachings of Tracton to have a client computer database reside within a server's storage. This would have provided a more efficient means for the server to access the pre-discovered performance parameters of the client computer, Bland, col. 2, lines 12-16.

4. In considering claims 9 and 18, the method of Bland further teaches updating the client computer database, (col. 2, lines 25-26). The motivation for modifying the teachings of Tracton with the teachings of Bland would be the same as that indicated in the consideration of claims 8 and 17.

5. In considering claim 26, although the disclosed system of Tracton show substantial features of the claimed invention, if fails to expressly disclose:

- a) Storing a client computer database in the storage of the server.

Nevertheless, storing a client computer database in the storage of a server was well known in the art at the time of the present invention. This is exemplified in a method, taught by Bland, that discloses a management data gathering system comprising:

- a) Storing a client computer database 123 in the storage of a server 103,  
(col. 5, lines 62-66).

Given the teachings of Bland, it would have been obvious to one of ordinary skill in the art, to modify the teachings of Tracton to have a client computer database reside within a server's storage. This would have provided a more efficient means for the server to access the pre-discovered performance parameters of the client computer, Bland, col. 2, lines 12-16.

6. In considering claim 27, the method of Bland further teaches updating the client computer database, (col. 2, lines 25-26). The motivation for modifying the teachings of Tracton with the teachings of Bland would be the same as that indicated in the consideration of claim 26.

7. Claims 28-30, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracton in view of Ramberg et al. (hereinafter Ramberg), U.S. patent publication 2003/0014505.

8. In considering claim 28, Tracton discloses a method of providing information over a communication network, comprising:

- a) Allowing a query program to be downloaded to a user computer, the query program, upon execution, querying the user computer for information, (col. 3, lines 55-58);

- b) Transmitting the information to a server, (col. 3, lines 58-62).

Although the disclosed system of Tracton show substantial features of the claimed invention, if fails to expressly disclose:

- a) Displaying the information to an expert technician.

Nevertheless, in a similar field of endeavor, Ramberg discloses a method for remote anomaly diagnosis comprising:

- a) Querying a computer 103 for information regarding one or more devices, and transmitting the information to a server 120, (page 3, paragraph 32);
- b) Displaying the information to an expert technician, (page 5, paragraph 44).

Given the teachings of Ramberg, it would have been apparent to one of ordinary skill in the art, to modify the teachings of Tracton to have the query program provide information regarding one or more components installed on a user computer for display to a remote expert technician. This would have provided an efficient means for a technician to determine problems associated with one or more components installed on a user computer in a computer network. Thus, allowing a technician to alleviate the problem in a more efficient manner, thereby, providing a user of the computer network a better Quality of Service (QoS), Ramberg, page 1, paragraphs 6 and 7.

9. In considering claim 29, the method of Tracton further discloses the query program being configured to issue one or more application program interface function calls to an operating system of the client computer, the operating system returning at

least one performance parameter in response to the one or more application program interface function calls. See col. 5, lines 30-57.

10. In considering claim 30, the method of Tracton further provides a means for the expert technician being prevented from having access to the user computer. See col. 3, lines 66-67, and col. 4, lines 1-13.

### ***Conclusion***

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tracton et al., U.S. patent 6,470,378 discloses a method for querying a client computer to determine its capabilities.

Ramberg et al., U.S. patent publication 2003/0014505 discloses a method for querying a computer to obtain information on devices associated with the computer.

Bland et al., U.S. patent 5,732,218 discloses a server containing a client database for managing data associated with the client.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is (703) 305-8760. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703) 305-4792. The fax phone

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HP/  
4/16/04



FRANTZ B. JEAN  
PRIMARY EXAMINER